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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/814,601  | 03/23/2001  | James T. Lynn        | GE04347             | 3710             |
| 7590  | 04/19/2005  |                      | EXAMINER            |                  |
| MOTOROLA INC<br>101 TOURNAMENT DRIVE<br>HORSHAM, PA 19044 |             |                      | DAVIS, ZACHARY A    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2137                |                  |

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/814,601             | LYNN ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Zachary A. Davis       | 2137                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 09 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. An amendment was received on 09 March 2005. Claim 1 has been amended. No claims have been added or canceled. Claims 1-5 are currently pending in the present application.

***Response to Arguments***

2. Applicant's arguments filed 09 March 2005 have been fully considered but they are not persuasive.

Regarding the rejection of Claims 1-5 under 35 U.S.C. 102(e) as anticipated by Slivka et al, US Patent 6049671, and specifically regarding independent Claim 1, Applicant argues that Slivka does not teach or disclose a secure kernel that includes boot code allowing the network appliance to boot up and establish communication with the network host. The Examiner respectfully disagrees. First, the Examiner notes that the kernel of an operating system is, by definition, responsible for the most basic functions of the system, which include startup of the system and interfaces with hardware such as a network interface. Second, the Examiner believes that Slivka does indeed teach establishing communication with the network host (column 6, lines 12-18).

Therefore, for the above reasons, the Examiner maintains the rejection as set forth below.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Slivka et al, US Patent 6049671.

In reference to Claim 1, Slivka discloses a method for securely distributing a component including signing a configuration file (the cabinet in the distribution file of column 16, line 55-column 17, line 1) including a load table (the summary of available software of column 8, lines 34-37), executing a secure kernel for checking the authenticity of the configuration file (column 17, lines 58-63) and for establishing communication with a network host (column 6, lines 12-18), verifying the authenticity of the configuration file (column 17, lines 58-63), reading the load table, and loading authorized components onto a network device (column 8, line 65-column 9, line 2).

In reference to Claim 2, Slivka further discloses that the loaded available software can be an operating system (the database of available software of column 7, lines 49-57, can include operating system components).

In reference to Claim 3, Slivka further discloses loading a software application (column 7, lines 49-64; column 8, line 65-column 9, line 2).

In reference to Claim 4, Slivka further discloses that the loaded available software can be services (the database of available software of column 7, lines 49-57 can include patches, fixes, and wizards).

In reference to Claim 5, Slivka further discloses generating an updated configuration file (column 8, lines 27-33), signing the updated configuration file (column 16, lines 65-67), transmitting the signed configuration file (column 8, lines 34-37), verifying the authenticity of the updated configuration file (column 17, lines 58-63), and reading the updated configuration file (column 8, lines 34-46).

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ZAD  
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ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER